

REGISTER

South Dakota Legislative Research Council



Volume 29

Monday, 8:00 a.m., November 25, 2002

A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council)

Department of Game, Fish and Parks:

(November 20, 2002) intends to adopt rules that modify the time when a park entrance license is not required at Custer State Park by repealing the park entrance license exemption for the day before the fall buffalo roundup, add and amend fish limits for inland waters and special management waters concerning Lynn Lake and Middle Lynn Lake in Day County, and implement procedures relating to the issuance, revocation, and refusal to issue a taxidermist license and record keeping requirements, customer specimen record requirements, prohibitions, responsibilities, date of implementation, and licensing procedures of taxidermists and their customers. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10, 41-6-33, 41-17-1.1, and 41-17-13.4.

A public hearing will be held at the Cedar Shores Resort in Oacoma, South Dakota, on December 12, 2002, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received prior to the hearing date. Comments may also be sent by e-mail to chuck.schlueter@state.sd.us. E-mail comments must include the commenter's name and address. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

Department of Commerce And Regulation:

Division of Insurance: (November 22, 2002) intends to adopt rules that clarify when care provided by family members can be covered by long-term care insurance, provide a means for individual health policy premiums to be reviewed on a less rigid schedule, and to clarify who the requirements regarding creditable coverage and pre-existing waiting periods apply to. The general authority for these rules, as cited by the department, are SDCL 58-4-1, 58-17-30.2, 58-17-87, 58-17B-4, and 58-17B-15.

A public hearing will be held in the First Floor Conference Room of the Commerce Building, 118 West Capitol Avenue, in Pierre, South Dakota, on December 18, 2002, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the South Dakota Division of Insurance, 118 W. Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by December 27, 2002, to be considered. Copies of the rules are also available on the Division's web-site located at: www.state.sd.us/dcr/insurance. Persons who have special needs for which the Division can make arrangements are asked to call (605) 773-3563 before the hearing.

Department of Social Services: Office of

Medical Services: (November 22, 2002) intends to adopt rules that allow the department to establish a state MAC list for certain drugs. The general authority for these rules, as cited by the department, is SDCL 28-6-1.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Wednesday, December 18, 2002, at 1:15 p.m.

Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Written comments must be postmarked by December 28, 2002 and received by December 30, 2002, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the Department at the time of the hearing. The written and oral comments must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3305 at least forty-eight hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Administrative Rules:

DEPARTMENT OF SOCIAL SERVICES: (Emergency) - 167:16:14:01, 167:16:14:06, 167:16:14:06.01, 167:16:14:06.02, and 167:16:14:12.

History-Notice: 29 SDR 71, Nov. 12, 2002
Hearing: NA
Filed: November 15, 2002
Effective: November 15, 2002

DEPARTMENT OF GAME, FISH AND PARKS: 41:03:03:03.02; 41:03:04:03; 41:04:02:04, 41:04:02:11; 41:04:02:19; 41:04:02:23, 41:04:02:58; 41:07:01:01, 41:07:01:03; 41:07:02:03, 41:07:02:05; 41:07:03:01, 41:07:03:03, 41:07:03:05; 41:07:08:06; 41:09:07:01, 41:09:07:02, 41:09:07:03, 41:09:07:03.01, 41:09:07:03.02, 41:09:07:04, 41:09:07:05, 41:09:07:06, 41:09:07:06.01, 41:09:07:06.02, 41:09:07:06.03, 41:09:07:06.04, 41:09:07:07; 41:09:08:01, 41:09:08:01.01, 41:09:08:03,

41:09:08:03.01, 41:09:08:03.02, 41:09:08:03.03, 41:09:08:03.04, 41:09:08:03.05; 41:09:08:04, 41:09:08:05, 41:09:08:06, and 41:09:08:07.

History-Notice: 29 SDR 57, Oct. 21, 2002
Hearing: November 7-8, 2002
Filed: November 20, 2002
Effective: December 10, 2002

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF WATER MANAGEMENT: 74:04:05, 74:04:06, and 74:04:11.

History-Notice: 29 SDR 33, Sept. 3, 2002
Hearing: September 25, 2002
Filed: November 20, 2002
Effective: December 10, 2002

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: DIVISION OF ENVIRONMENTAL SERVICES:

74:04:10:01 to 74:04:10:08, inclusive, 74:04:10:12, 74:04:10:14, 74:04:10:16, 74:04:10:18 to 74:04:10:21, inclusive, 74:04:10:26 to 74:04:10:28 inclusive, 74:04:10:30, 74:04:10:33, 74:04:10:36, and Appendix A, B, C, and D.

History-Notice: 29 SDR 37, Sept. 9, 2002
Hearing: October 3, 2002
Filed: November 20, 2002
Effective: December 10, 2002

DEPARTMENT OF HUMAN SERVICES: DIVISION OF MENTAL HEALTH SERVICES:

46:20:01:01 to 46:20:01:05, inclusive; 46:20:02:01 to 46:20:02:09, inclusive; 46:20:03:01 to 46:20:03:09, inclusive; 46:20:04:01 to 46:20:04:21, inclusive; 46:20:05:01 to 46:20:05:08, inclusive; 46:20:06:01 to 46:20:06:16, inclusive; 46:20:07:01 to 46:20:07:35, inclusive; 46:20:08:01 to 46:20:08:30, inclusive; 46:20:09:01 to 46:20:09:27, inclusive; 46:20:10:01 to 46:20:10:05, inclusive; 46:20:10:09, 46:20:10:11 to 46:20:10:13,

inclusive; 46:20:11:01, 46:20:11:07 to 46:20:11:08, inclusive; 46:20:12:01 to 46:20:12:11, inclusive; 46:20:13:01 to 46:20:13:13, inclusive; 46:20:14:01 to 46:20:14:05, inclusive; 46:20:15:01 to 46:20:15:14, inclusive; 46:20:16:01 to 46:20:16:18, inclusive; and 46:20:17:01 to 46:20:17:09, inclusive.

History-Notice: 29 SDR 47, Sept. 30, 2002
 Hearing: October 25, 2002
 Filed: November 20, 2002
 Effective: December 10, 2002

**DEPARTMENT OF SOCIAL SERVICES:
 OFFICE OF ADULT SERVICES AND
 AGING:** 67:40:07:06; 67:44:02:05, and
 67:44:02:05.01.

History-Notice: 29 SDR 47, Sept. 30, 2002
 Hearing: October 17, 2002
 Filed: November 21, 2002
 Effective: December 11, 2002

DEPARTMENT OF HEALTH: 44:04:01:01,
 44:04:01:07, 44:04:01:08; 44:04:02:12,
 44:04:02:17, 44:04:02:21; 44:04:03:01,
 44:04:03:02.01; 44:04:04:01, 44:04:04:03,
 44:04:04:05, 44:04:04:08.01, 44:04:04:11.01,
 44:04:04:12, 44:04:04:12.01, 44:04:04:16;
 44:04:05:05; 44:04:06:15; 44:04:07:02,
 44:04:07:02.02, 44:04:07:03, 44:04:07:06,
 44:04:07:07, 44:04:07:15, 44:04:07:16;
 44:04:08:02; 44:04:10:01, 44:04:10:02;
 44:04:11:01, 44:04:11:11, 44:04:11:12;
 44:04:12:02, 44:04:12:04; 44:04:13:01,
 44:04:13:15, 44:04:13:16, 44:04:13:25,
 44:04:13:26, 44:04:13:28, 44:04:13:33,
 44:04:13:36, 44:04:13:37, 44:04:13:48;
 44:04:14:17, 44:04:14:18; 44:04:15:07;
 44:04:17:05, 44:04:17:10, 44:04:17:13,

44:04:18:02, 44:04:18:29, 44:04:18:31;
 44:04:20:02, and 44:04:20:12.

History-Notice: 29 SDR 29, August 26, 2002
 Hearing: October 2, 2002
 Filed: November 21, 2002
 Effective: December 11, 2002

Executive Appointments:

Duncan S. Murdy, Aberdeen, was reappointed on November 12, 2002, to the **State Board of Pharmacy**, effective immediately, and shall continue until October 1, 2005.

Vicki Strong, Rapid City, was appointed on November 12, 2002, to the **South Dakota Professional Teachers Practices and Standards Commission**, to replace Val Froehlich-Fox, effective immediately and shall continue until December 31, 2005.

Donn Fahrendorf, Sioux Falls, was appointed on November 18, 2002, to the **Board of Chiropractic Examiners**, to replace Steve Headrick, effective December 9, 2002, and shall continue until January 1, 2004.

Ralph Kemnitz, Philip, was appointed on November 18, 2002, to the **South Dakota Commission on Gaming**, to replace Elaine Emery, effective immediately and shall continue until April 14, 2004.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

REMINDER OF HEARINGS SCHEDULED

12-2-2002	Social Services	Intends to adopt rules relating to the TANF Program and the Food Stamp Program; 29 SDR 65.
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12-3-2002	Commerce and Regulation	Update the Appraiser Certification Program; 29 SDR 71.
12-4-2002	Health	Amend employment contract requirements for the J-1 physician; 29 SDR 71.
12-4-2002	Environment and Natural Resources: Board of Water Management	Add warmwater marginal fish life propagation waters and limited contact recreation waters beneficial uses to a segment of Moccasin Creek in Brown County; 29 SDR 72.
12-4-2002	Commerce and Regulation: Gaming Commission	Adoption and amendment of rules concerning Deadwood gambling and horse racing; 29 SDR 72.
12-12-2002	Game, Fish and Parks	Amend park entrance license exemptions at Custer State Park, add fish limits at Middle Lynn Lake and Lynn Lake in Day County, and adopt new rules regarding taxidermists; 29 SDR 79.
12-18-2002	Commerce and Regulation: Division of Insurance	Amend rules for long-term care insurance, individual health policy premiums, and clarify who rules apply to regarding creditable coverage and pre-existing waiting periods; 29 SDR 79.
12-18-2002	Social Services: Medical Services	Adopt rules that allow the department to establish a state MAC list for certain drugs; 29 SDR 79.

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Monday, January 13, 2003, in Room 413 of the State Capitol.

Agencies whose rules have had a public hearing will be scheduled to meet with the Rules Review Committee and are asked to have a representative present at the meeting to give background information on their rules.

Note: An updated version of the Administrative Rules Guide to Form and Style is now available at the LRC office and on the LRC web site.

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